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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
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11 DONALD L. ARMSTRONG,

12 Plaintiff,

13 v.

14 SUNTRUST MORTGAGE INC.; and
DOES 1 through 20, inclusive,

15 Defendants.
16

Case No. 2:13-cv-8325-ODW(PLAx)


**ORDER GRANTING
DEFENDANT'S MOTION TO
DISMISS [7]**

17 This case was removed to this Court on November 8, 2013, on the basis of
18 diversity jurisdiction under 28 U.S.C. § 1332. On November 19, 2013, Defendant
19 SunTrust Mortgage, Inc. filed the present Motion to Dismiss pursuant to Federal
20 Rules of Civil Procedure 12(b)(6) and 12(b)(7). (ECF No. 7.) SunTrust complied
21 with Local Rule 7-3 by communicating with counsel for Plaintiff Donald L.
22 Armstrong on three occasions before filing the Motion. A hearing date was set for
23 December 23, 2013. Under Local Rule 7-9, Armstrong was required to file an
24 opposition 21 days before the hearing, on December 2, 2013. No opposing papers
25 were filed. While Armstrong did file a Motion to Remand on December 9, 2013, the
26 Court struck it for being procedurally deficient. (ECF Nos. 9, 15.) "The failure to file
27 any required document, or the failure to file it within the deadline, may be deemed
28 consent to the granting or denial of the motion." L.R. 7-12. Since SunTrust's Motion

1 to Dismiss stands unopposed, the Court finds that Plaintiff has consented to granting
2 the Motion. Therefore, the Court **GRANTS** SunTrust's Motion to Dismiss **WITH**
3 **LEAVE TO AMEND**. Armstrong may file an amended complaint within 14 days of
4 this order.

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6 **IT IS SO ORDERED.**

7
8 December 17, 2013

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11 **OTIS D. WRIGHT, II**
12 **UNITED STATES DISTRICT JUDGE**
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